

**DELAWARE HEALTH FACILITIES AUTHORITY**  
**MINUTES OF SPECIAL MEETING**

**of**  
**July 31, 2013**

A special meeting of the Delaware Health Facilities Authority (the “Authority”) was held on July 31, 2013, commencing at 12:15 p.m., at the offices of Potter Anderson & Corroon LLP at 1313 North Market Street, Wilmington, Delaware 19801. The meeting was duly noticed and open to the public.

The following Authority Members attended in person: Rolf F. Eriksen, Chair, Desmond A. Baker, and William J. Riddle. Authority Member Howard A. Palley, Ph.D. joined the discussion by telephone connection but did not vote at the meeting. Also participating in the meeting from Potter Anderson & Corroon LLP was John J. Quinn, III, Esq., the Authority's counsel. Emilie Ninan, Esq., of Ballard Spahr LLP, was also present.

No members from the general public appeared during the course of the meeting.

Mr. Eriksen called the meeting to order at 12:20 p.m.

**Approval of Clarifying Language in Christiana Care Health Services, Inc. Series 2010 Bonds**

Mr. Quinn stated that the Members are being asked by Christiana Care Health Services, Inc. and the bond trustee to consider approval of a clarification to the interest calculation on certain Christiana Care (CCHS) Series 2010 Bonds. Mr. Quinn advised the Members that the Authority has the power to approve clarifications under the bond documents without bondholder consent whenever the action is for purposes of “curing an ambiguity.”

Mr. Quinn explained that the CCHS Bond documents did not explicitly state how daily interest would be computed. Both CCHS and the bond trustee had understood that daily interest would be determined on the basis of a 360-day year, and twelve 30-day months. This is a customary manner in which interest is computed under bond documents. The trustee would like this clarification explicitly stated in the Bond Indenture’s provisions (the relevant portion of which is set forth below). Mr. Quinn presented to the Members the relevant provision of the Bond Indenture, including the proposed new language in CAPITALIZED font. Mr. Quinn advised the Members that there were no other changes to the Bond Indenture or any other Bond documents.

Mr. Quinn stated that the Authority is being asked to approve the addition of the clarifying language shown in ALL CAPS below. From Section 202(c) of the Supplemental Indenture No. 7:

(c) The Series 2010 Bonds shall be issuable in denominations of \$5,000 and any integral multiple thereof. The Series 2010

Bonds shall be dated the date of issuance of the Series 2010 Bonds. **INTEREST ON THE SERIES 2010 BONDS SHALL BE COMPUTED ON THE BASIS OF A 360-DAY YEAR COMPRISED OF TWELVE 30-DAY MONTHS.**

Mr. Quinn advised the Members that if the Authority approves the requested clarifying change, the clarification would be documented by execution of an instrument setting forth the change, which was presented to the Members, and that the Trustee has already signed the requested instrument. A copy of the instrument is attached.

After Member discussion, and motion by Mr. Riddle seconded by Mr. Baker, the Members in physical attendance at the meeting unanimously approved the clarifying change and authorized the Chair of the Authority to execute the requested instrument.

### **Written Procedures Concerning Post-Issuance Monitoring**

Mr. Quinn discussed the background concerning this matter. Treasury Form 8038 ("Form 8038"), which is an information return for tax-exempt private activity bonds that is filed with the IRS within 75 days of bond issuance, was modified in April 2011 and, since that time, has been the subject of commentator review and further IRS guidance.

Form 8038 now asks whether the bond issuer (which would be Delaware Health Facilities Authority) has established written procedures to monitor post-issuance compliance. Based on commentators' interpretations of recent IRS pronouncements, the existence of written procedures is now believed to reduce the probability of a bond audit and, possibly, to serve to minimize penalties that would be assessed in the event of post-issuance non-compliance.

Following Mr. Quinn's report, Ms. Ninan provided additional historical background.

At the request of Mr. Riddle and Mr. Eriksen, Mr. Quinn made copies of the former and current Form 8038 and instructions and distributed to the Members at the meeting. Mr. Quinn pointed out the additional "written procedures" questions in the current Form 8038.

In the course of discussions that followed, Mr. Quinn explained how the Authority relies on its auditor's work concerning outstanding bonds, and that the Authority's auditor relies on reports of the borrowers' outside (third party) auditors.

Ms. Ninan explained that many of the borrower's compliance obligations are set forth in a tax certificate delivered at the bond closing. Each borrower (i.e., hospital) is responsible for meeting those compliance obligations.

Mr. Quinn and Ms. Ninan explained that they had considered numerous forms of written procedures including, for example, a form developed by Ballard Spahr in working with its small conduit issuer bond clients; the policies of Delaware Economic Development Authority;

guidance in Internal Revenue Service publications and manuals; and California authority procedures.

Mr. Quinn advised the Members that it would be helpful if a policy could be adopted in time to meet the 75-day window following the recent Nanticoke 2013 Bond issuance, and that the Authority could reconsider and update its policy at any time and from time to time.

After considerable discussion, which included, among other things, a conceptual comparison of a “no-staff, non-employee” organization such as the Authority with other bond issuers that have a full-time multi-person staff, the Members present at the meeting considered a policy in the form attached. Upon motion by Mr. Baker, seconded by Mr. Riddle, the Members in physical attendance at the meeting unanimously approved and adopted the policy in the form attached, with changes noted, as the Delaware Health Facilities Authority Post-Issuance Compliance Policy for Tax-Exempt Obligations.

There being no further discussion, Mr. Eriksen adjourned the meeting at 1:25 p.m.

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## **CERTIFICATION**

I, Desmond A. Baker, hereby certify that the foregoing is a true and correct copy of the Minutes of Special Meeting of the Delaware Health Facilities Authority held on July 31, 2013.

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Desmond A. Baker  
Secretary-Treasurer

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## ATTACHMENT

First Amendment to Supplemental Indenture No. 7

ATTACHMENT

DELAWARE HEALTH FACILITIES AUTHORITY  
POST- ISSUANCE COMPLIANCE POLICY FOR TAX-EXEMPT OBLIGATIONS